


MEMORANDUM

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 13-08, Taxation – Arts and Entertainment District – Property Tax Credits

Bill 13-08, Taxation – Arts and Entertainment District – Property Tax Credits, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on April 15, 2008. A public hearing is tentatively scheduled for May 6 at 1:30 p.m.

Bill 13-08 would amend the law providing a property tax credit in arts and entertainment districts to conform to State law. The bill clarifies that the credit only applies to the portion of a building that is used by a qualifying residing artist or arts and entertainment enterprise.

<u>This packet contains</u>	<u>Circle</u>
Bill 13-08	1
Legislative Request Report	5
Memo from County Executive	6
State Law	7

Bill No. 13-08
Concerning: Taxation - Arts and
Entertainment District - Property Tax
Credits
Revised: 4-11-08 Draft No.
Introduced: April 15, 2008
Expires: October 15, 2009
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. , Laws of Mont. Co.

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: _____

AN ACT to:

- (a) amend the law allowing a property tax credit in arts and entertainment districts to conform to State law,
- (b) clarify that the property tax credit only applies to the portion of a building that is used by a qualifying residing artist or arts and entertainment enterprise; and
- (c) generally amend County law regarding arts and entertainment districts.

By amending

Montgomery County Code
Chapter 52, Taxation
Section 52-18L

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Section 52-18L is amended as follows:

52-18L. Property tax credit - arts and entertainment district.

(a) In this Section the following words have the meanings indicated.

Arts and Entertainment District, Arts and Entertainment Enterprise, and Qualifying Residing Artist are defined in Section 4-701 of Article 83A of the [[Annotated Code of]] Maryland Code.

Base year means the taxable year immediately before the taxable year in which a property tax credit under this section is granted.

Base year value means the value of the property used to determine the assessment on which the property tax was imposed for the base year. *Base year value* does not include any property first assessed in the base year.

Eligible assessment means the difference between the base year value and the actual assessed value for the applicable taxable year in which the tax credit under this Section is to be granted.

(b) The Director of Finance must allow a tax credit, as authorized by state law, to a taxpayer against the County property tax imposed on a manufacturing, commercial, or industrial building that:

(1) is located in an arts and entertainment district; and

(2) is wholly or partially constructed or renovated to be
capable for use by a qualifying residing artist or an arts
 and entertainment enterprise.

(c) A tax credit granted under this Section applies for 10 years, as
 provided in subsection (d), [as long as] for that portion of the
 building [thereof] that is used by a qualifying residing artist or an
 arts and entertainment enterprise.

(d) The Director must calculate a tax credit allowed under this Section
 as follows:

(1) Except for properties allowed a Enterprise Zone Tax Credit,
 the amount of the tax credit under this Section is the
 following percentage of the amount of property tax imposed
 on the eligible assessment of the property entitled to the
 credit:

(A) 80% in each of the first 5 taxable years after the
 calendar year when the property initially is entitled to
 the credit;

(B) 70% in the 6th taxable year;

(C) 60% in the 7th taxable year;

(D) 50% in the 8th taxable year;

(E) 40% in the 9th taxable year; and

(F) 30% in the 10th taxable year.

(2) For properties allowed an Enterprise Zone Tax Credit, the
 amount of the tax credit under this Section is 20% of the

49 amount of property tax imposed on the eligible assessment
 50 of the property entitled to the credit for each of the 10
 51 taxable years after the calendar year when the property
 52 initially is entitled to the credit. The credit under this
 53 Section is in addition to the Enterprise Zone Tax Credit.

54 *Approved:*

55

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Michael J. Knapp, President, County Council

Date

57 *Approved:*

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Isiah Leggett, County Executive

Date

59 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 13-08

Arts & Entertainment District Property Tax Credit

DESCRIPTION: Allows property tax credits to newly constructed facilities in designated Arts and Entertainment Districts. Clarifies that the property tax credit is only available for the portion of the building that is used by a qualifying residing artist or arts and entertainment enterprise.

PROBLEM: In 2005, the State expanded its enabling law to allow newly constructed cultural facilities located in Arts and Entertainment Districts to seek property tax credit. As currently written, the County property tax law only provides tax credits for renovated manufacturing, commercial and industrial buildings that are used for arts facilities in Arts and Entertainment Districts.

GOALS AND OBJECTIVES: The goal of this bill is to align the County's law with State law by extending the eligibility for property tax credits to newly constructed arts and entertainment facilities in designated Arts and Entertainment Districts.

COORDINATION: County Executive's Office, Department of Finance

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: to be researched

SOURCE OF INFORMATION: Pradeep Ganguly, Director, Department of Economic Development; Michael Faden, Senior Legislative Attorney, 240-777-7905

APPLICATION WITHIN MUNICIPALITIES: Designated Arts and Entertainment Districts (Wheaton, Silver Spring and Bethesda) to date are not located in municipalities. County tax laws apply Countywide.

PENALTIES: Not applicable




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 7, 2008

TO: Michael J. Knapp, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Arts and Entertainment District –Property Tax Credit (County Code Section 52-18L)

I am transmitting a bill for introduction in the County Council that would amend the Property Tax Credit which is available only to cultural facilities in the County's designated Arts and Entertainment Districts. The purpose of this bill is to align County law with State law by extending the eligibility for property tax credits to newly constructed arts and entertainment facilities. Currently, only renovated properties qualify for the credit.

Under State law, the Department of Business and Economic Development may designate Arts and Entertainment Districts throughout Maryland. The purpose of these districts is to stimulate neighborhood revitalization and support cultural amenities. In order to designate an area as an Arts and Entertainment District, the County must make certain tax and financial benefits available within the district. One of the requirements is a property tax credit.

In accordance with the State enabling law, the jurisdiction in which an Arts and Entertainment District is located must grant a property tax credit on the increased assessment resulting from the renovation of a manufacturing, commercial or industrial building into an arts and entertainment venue. Since the County's enactment of corresponding law in 2002, Bethesda, Silver Spring and Wheaton have been designated as Arts and Entertainment Districts.

In 2005, the State expanded its enabling law to allow newly constructed cultural facilities located in Arts and Entertainment Districts to seek property tax credits, a change that is reflected in the attached bill. In addition, the bill refines County law to clarify that the property tax credit is only available for the portion of a building that is used by a qualifying residing artist or arts and entertainment enterprise.

I appreciate your prompt attention to this matter. For additional information, please contact Tina Benjamin in the Department of Economic Development at 240-777-2006.

(2) The Maryland Historical Trust, in cooperation with the Department of General Services, shall be responsible for the inventory, maintenance, and preservation of all artwork acquired through the Program. (2005, ch. 393.)

Bill review letter. — Chapters 393, 551, and 614 Acts 2005 (House Bill 449, House Bill 1594, and House Bill 749) were approved for constitutionality and legal sufficiency, although they should not be given effect as caps on the amounts the Governor may include in the annual budget, since the funding of particular

programs and projects of the State in future annual budgets is discretionary; thus, the amounts specified should be read as a non-binding statement of legislative intent rather than a cap. (Letter of the Attorney General dated May 4, 2005.)

(Abrogation of subtitle effective May 31, 2010.)

Subtitle 6A. Maryland Public Art Initiative Program.

§§ 4-6A-01 to 4-6A-04. Maryland Public Art Initiative Program.

Abrogated.

Editor's note. — Section 2, ch. 393, Acts 2005, provides that "This Act shall take effect June 1, 2005. It shall remain effective for a period of 5 years and, at the end of May 31, 2010, with no further action required by the

General Assembly, this Act shall be abrogated and of no further force and effect." This subtitle is set out as it will appear May 31, 2010, unless further action is taken by the General Assembly.

Subtitle 7. Arts and Entertainment Districts.

§ 4-701. Designation and tax benefits.

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) (i) "Artistic work" means an original and creative work, whether written, composed, or executed, that falls into one of the following categories:

1. A book or other writing;
2. A play or performance of a play;
3. A musical composition or the performance of a musical composition;
4. A painting or other picture;
5. A sculpture;
6. Traditional or fine crafts;
7. The creation of a film or the acting within a film; or
8. The creation of a dance or the performance of a dance.

(ii) "Artistic work" includes any product generated as a result of any of the categories listed under subparagraph (i) of this paragraph.

(iii) "Artistic work" does not include any piece or performance created or executed for industry-oriented or industry-related production.

(3) "Arts and entertainment district" means a developed district of public and private uses that:

(i) Ranges in size from a portion of a county or municipal corporation to a regional district with a special coherence; and

(ii) Is distinguished by physical and cultural resources that play a vital role in the life and development of the community and contribute to the public through interpretive, educational, and recreational uses.

(4) "Arts and entertainment enterprise" means a for profit or nonprofit entity dedicated to visual or performing arts.

(5) "Qualifying residing artist" means an individual who:

(i) Owns or rents residential real property in the county where the arts and entertainment district is located and conducts a business in the arts and entertainment district; and

(ii) Derives income from the sale or performance within the arts and entertainment district of an artistic work that the individual wrote, composed, or executed, either solely or with one or more other individuals, in the arts and entertainment district.

(b) *Tax status.* — Subject to the requirements of this section, the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may apply to the Secretary for designation of an arts and entertainment district in the county or municipal corporation in which:

(1) Qualifying residing artists are eligible for the income tax subtraction modification under § 10-207(v) of the Tax - General Article;

(2) A property tax credit under § 9-240 of the Tax - Property Article applies; and

(3) An exemption from the admissions and amusement tax under § 4-104 of the Tax - General Article applies.

(c) *Designation of district.* — An arts and entertainment district shall be a contiguous geographic area of a county that is:

(1) Wholly within a priority funding area as provided under § 5-7B-02 of the State Finance and Procurement Article; or

(2) Wholly within a designated neighborhood as defined under § 6-301 of the Housing and Community Development Article.

(d) *Notification to Comptroller; effective date of tax status.* — (1) The Secretary shall give the Comptroller notice of the establishment of an arts and entertainment district on or before July 1 prior to the effective date of its establishment.

(2) The subtraction modification under § 10-207(v) of the Tax - General Article shall be applicable to all taxable years beginning after December 31 of the year in which the notice required under paragraph (1) of this subsection is provided. (2001, ch. 29, § 5; ch. 608; 2005, ch. 44, § 1; ch. 175.)

Effect of amendments. — Section 1, ch. 44, Acts 2005, effective October 1, 2005, substituted "§ 6-301 of the Housing and Community Development Article" for "Article 83B, § 4-202 of the Code" in (c)(2).

Chapter 175, Acts 2005, effective June 1,

2005, substituted "the county where the arts and entertainment district is located" for "an arts and entertainment district" in (a)(5)(i); and added "in the arts and entertainment district" at the end of (a)(5)(ii).

TITLE 5.

ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS.

Subtitle 1. General Provisions.

§ 5-103. ~~Transfer of funds.~~

(a) *In general.* — ~~Notwithstanding any other provision of law, the Secretary~~